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Comptroller General
of the United States

United States Government Accountability Office
Washington, DC 20548

Decision

Matter of: Latvian Connection LLC

File: B-413442

Date: August 18, 2016

Keven Barnes, Latvian Connection LLC, for the protester.
Daniel C. McIntosh, Esq., Defense Information Systems Agency, for the agency.
Scott H. Riback, Esq., Heather Weiner, Esq., Tania Calhoun, Esq., Kenneth E. Patton, Esq., and Ralph O. White, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

1. GAO lacks jurisdiction to hear protest challenging the issuance of a task order under a multiple-award, indefinite-delivery/indefinite-quantity (ID/IQ) contract where the value of the order is below the \$10 million threshold for GAO task order protest jurisdiction.
2. Protester is not an interested party to challenge the issuance of a task order where the protester does not hold one of the ID/IQ contracts under which the protested order has been issued.
3. Protest challenging the issuance of a task order to a large business concern is dismissed for abuse of process, and the protester is suspended from protesting for a period of one year, where the protester has submitted 150 protests this fiscal year, challenging an array of acquisitions (some of which were fully performed years earlier) conducted by a host of contracting agencies worldwide; has repeatedly failed to demonstrate that it is capable of, or interested in, performing the solicited requirements; and has repeatedly failed to engage constructively on the substantive and threshold issues raised by its protests.

DECISION

Latvian Connection, LLC, of Healdsburg, California, and Kuwait City, Kuwait, protests the issuance of a task order by the Defense Information Systems Agency (DISA) to ManTech Advanced Systems International, Inc. for engineering services. Latvian Connection maintains that the agency improperly failed to both set the

acquisition aside for small businesses, and post the solicitation on the Federal Business Opportunities (FedBizOpps) website.

We dismiss the protest.

BACKGROUND

Latvian Connection, which represents that it is a service-disabled veteran-owned small business (SDVOSB), is a frequent protester in our Office. In this protest, Latvian Connection challenges the issuance of a task order under a multiple-award, indefinite-delivery/indefinite-quantity (ID/IQ) contract awarded to ManTech in 2011. The task order at issue in the protest, HC1028-12-D-0026, Modification No. 11, was issued to ManTech on September 27, 2013, and called for full performance by January 31, 2016. The total value of the task order was \$1,360,923.93.

In response to the protest, DISA submitted a request for dismissal, arguing that GAO lacks jurisdiction to hear the protest because it challenges a task order valued below \$10 million. Agency Dismissal Request at 2. The agency also contends that Latvian Connection is not an interested party to pursue the protest because it is not one of the awardees of the ID/IQ contract. *Id.* at 1-2. In response to the dismissal request, Latvian Connection submitted 25 pages of excerpts cut and pasted from a variety of documents, none of which addresses the agency's contentions. For example, Latvian Connection provides no response to the agency's assertion that the value of the task order is below the \$10 million threshold required for GAO task order jurisdiction. Latvian Connection also fails to provide any response to the agency's argument that Latvian Connection is not an interested party because it does not hold one of the ID/IQ contracts.

In addition to the instant protest, our records show that, thus far this fiscal year, Latvian Connection has filed 150 protests with our Office.¹ Of the 131 protests closed to date this fiscal year, one was denied on the merits. The remaining protests were dismissed, the most common reason being that Latvian Connection was not an interested party.² A number of Latvian Connection's most recent

¹ Our records show that Latvian Connection has filed an additional 296 protests in prior fiscal years; almost all of these protests were filed in the last five years. In addition, the firm has filed 9 requests that it be reimbursed its protest costs (all were dismissed as legally insufficient), and 40 requests for reconsideration (4 pending, 3 dismissed as untimely, and 33 dismissed as legally insufficient).

² Under GAO's statute, 31 U.S.C. § 3551(2), and under GAO's Bid Protest Regulations, a protester must be an "interested party" to file a bid protest; the term is defined as "an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract or by the failure to award a contract." 4 C.F.R. § 21.0(a)(1).

protests, like the instant protest, have been attempts to challenge acquisitions where the contract in question was awarded years ago.

Latvian Connection's protests have challenged the acquisitions of a wide range of federal agencies. In fiscal year 2016, Latvian Connection's protests include challenges to acquisitions conducted by the Department of Defense; Department of the Army; U.S. Army Corps of Engineers; Department of the Air Force; United States Marine Corps; Department of the Navy; United States Coast Guard; National Guard; Defense Logistics Agency; Defense Information Systems Agency; Department of Veterans Affairs; Department of Homeland Security; National Parks Service; Department of State; Broadcasting Board of Governors; and Department of Interior.

The contracts or orders awarded, or to be awarded, under the protested acquisitions include a similarly wide array of goods and services. In fiscal year 2016, a non-exhaustive list of Latvian Connection's protests includes acquisitions for engineering services, furniture, cell phone services, landscaping services, housekeeping and facilities operation services, printing and delivery services, antennas, laundry chemical services, portable generators, basic life support services, stevedoring and marine cargo handling services, industrial-size frequency converters and uninterruptable power supply batteries, passenger vehicles, refrigeration containers, industrial truck scales, the lease of barges, medical equipment and supplies, safety shoes and vests, anti-microbial medical privacy curtains, brake test machines, and the repair and alteration of an airfield in Bahrain.³

Despite the wide-ranging list of acquisitions for goods and services protested by Latvian Connection, an examination of data included in the Federal Procurement Data System (FPDS) shows that Latvian Connection has been awarded only one government contract; in 2011 the Department of the Army awarded Latvian Connection a contract for miscellaneous medical supplies.⁴ The value of the contract was approximately \$113,000, and it was subsequently terminated for the convenience of the government.⁵

³ In a single week in fiscal year 2015, Latvian Connection filed 59 separate protests challenging what the protester termed were Air Force solicitations. All 59 protests were dismissed when it became evident that the 59 solicitations that Latvian Connection was challenging did not actually exist. Latvian Connection, LLC, B-410801, et al., Dec. 22, 2014, 2014 CPD ¶ 380.

⁴ See <https://www.fpds.gov/ezsearch/search.do?indexName=awardfull&templateName=1.4.4&s=FPDSNG.COM&q=%22latvian+connection%22> (last visited August 18, 2016).

⁵ See n.4, supra, at modification No. 2 (last visited August 18, 2016).

Latvian Connection's protest filings typically are a collection of excerpts cut and pasted from a wide range of documents having varying degrees of relevance to the procurements at issue, interspersed with remarks from the protester. The tone of the filings is derogatory and abusive towards both agency officials and GAO attorneys. The most common allegations raised in Latvian Connection's protests are that the acquiring agency improperly has failed to set aside an acquisition for SDVOSBs or small businesses, and/or that the agency has failed to publicize the procurement through the required government point of entry, www.fbo.gov.

While its protests typically revolve around the two central issues noted above, Latvian Connection also routinely makes baseless accusations. In recent months, Latvian Connection has claimed that agency and GAO officials are white collar criminals; that the actions of agency procurement officials have violated the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961-1968; that various federal agency officials have engaged in treason; that GAO has violated the Equal Access to Justice Act, 5 U.S.C. § 504; and that agency and GAO officials have engaged in activities that amount either to engaging in, or covering up, human trafficking and slavery.

Our records also show that, as recently as 2014, the proprietor of Latvian Connection established and advertised on behalf of a different entity known as Blue Camel Consulting. The advertisements for Blue Camel Consulting offered to file protests at our Office on behalf of other companies for a fee of \$5,000, offered complete confidentiality, and offered a 20 percent discount from the advertised fee if the protest involved a Department of Defense agency. Latvian Connection, LLC, B-410147, B-410149, Sept. 4, 2014, 2014 CPD ¶ 266 at 2 (protests challenging an agency's use of FEDBID dismissed on interested party grounds because protester's response to GAO's questions about the advertisement stated only that Latvian had filed the instant protests for itself and advised that it would bid on the requirement if the procurement were not conducted using FEDBID, but did not represent that it had the necessary capacity and experience to compete; that it had competed in the past on similar projects; or that it had performed similar projects in the past).

DISCUSSION

The instant protest challenges a task order issued under a multiple-award ID/IQ contract, with a total value of \$1,360,923.93. As discussed below, we dismiss the protest because it is not within our task order jurisdiction, and because we find that Latvian Connection is not an interested party to protest the issuance of the task order. In addition, because we find that Latvian Connection's litigation practices with regard to the 150 protests filed with our Office thus far this fiscal year undermine the effectiveness, and thereby the integrity, of our bid protest process, we also dismiss the instant protest for abuse of process.

Dismissal of Protest for Lack of Jurisdiction and Interested Party Status

We first dismiss the protest for lack of jurisdiction. The general jurisdiction of our Office is established by the bid protest provisions of the Competition in Contracting Act (CICA), 31 U.S.C. §§ 3551-3556. To that end, CICA mandates that our bid protest forum provide for “the inexpensive and expeditious resolution of protests.” 31 U.S.C. § 3554(a)(1). Where, as here, the protest challenges the issuance or proposed issuance of a task or delivery order under a multiple-award contract, our general protest jurisdiction applies only if the order has a value in excess of \$10 million, or where the protester can show that the order increases the scope, period, or maximum value of the contract under which the order is issued.⁶ 10 U.S.C. § 2304c(e); see, e.g., e-Management Consultants, Inc.; Centech Group, Inc., B-400585.2, B-400585.3, Feb. 3, 2009, 2009 CPD ¶ 39 at 6.

The record reflects that the task order issued to ManTech has an estimated total value of \$1,360,923.93. Agency Dismissal Request, Tab 3, Task Order Amendment, at 1. Because the value of the task order was below the \$10 million threshold, this procurement falls outside of our jurisdiction to hear protests related to the issuance of task orders under multiple-award, ID/IQ contracts. 10 U.S.C. § 2304c(e). Accordingly, we dismiss the protest for this reason.

We also dismiss the protest because we find that Latvian Connection is not an interested party to protest the issuance of the task order. CICA and our implementing regulations require a protester to be an “interested party,” that is, an offeror or vendor with a direct economic interest in the award of a contract (or issuance of a task order) or the failure to award a contract (or issue a task order). 31 U.S.C. § 3551; 4 C.F.R. §§ 21.0(a)(1), 21.1(a). A protester is not an interested party where it would not be in line for award were its protest to be sustained, including, for example, where it fails to possess or meet the requirements of the ID/IQ contract under which the protested order will be or has been issued. See, e.g., Florida State College at Jacksonville, B-402656, June 24, 2010, 2010 CPD ¶ 46 at 6 n.5 (dismissing protest where the protester failed to hold a requisite ID/IQ contract).

Here, Latvian Connection has not demonstrated (or even argued) that it holds the requisite ID/IQ contract against which the protested order was issued, and DISA has advised in response to the protest that Latvian Connection “was not one of the initial awardees to the ID/IQ contract.”⁷ Agency Dismissal Request at 2. Because

⁶ Latvian Connection does not argue that the challenged order exceeds the scope, period, or maximum value of the contract under which the order was placed.

⁷ Latvian Connection does not refute the agency’s statement. See Protester’s Response to Dismissal Request (August 10, 2016), at 1-25.

there is no indication in the record that Latvian Connection holds the requisite ID/IQ contract, we conclude that Latvian Connection is not an interested party to maintain the instant protest, and dismiss the protest on this basis.

Abuse of Process and Suspension

The protest at issue here is very similar to the many other protests filed by Latvian Connection. In implementing CICA's mandate, our Office has devised simple and flexible procedures that are easy to follow, and have as a basic principle, elimination of barriers to filing a protest. By design, our procedures make it easy and inexpensive for a party to file and pursue a protest where that party has a legitimate belief that some aspect of a federal acquisition has been conducted improperly.

However, our Office necessarily reserves an inherent right to dismiss any protest, and to impose sanctions against a protester, where a protester's actions undermine the integrity and effectiveness of our process. PWC Logistics Servs. Co. KSC(c), B-310559, Jan 11, 2008, 2008 CPD ¶ 25 at 12. The inherent right of dispute forums to levy sanctions in response to abusive litigation practices is widely recognized and has been characterized by the Supreme Court as "ancient in origin," and governed not by rule or statute, but by the control necessarily vested in a forum to manage its own affairs. Roadway Express, Inc. v. Piper et al., 447 U.S. 752, 765 (1980).

As detailed above, Latvian Connection has filed an exceptionally large number of protests in fiscal year 2016. These filings reflect a larger pattern of vexatious protesting that dates back several years. As set forth above, these protests have challenged an array of acquisitions conducted by a host of contracting agencies worldwide. In the overwhelming majority of these protests, the record has demonstrated that Latvian Connection either was not an interested party to challenge the agency's actions, or raised challenges that were legally insufficient. In other words, Latvian Connection--time and again--either has failed to demonstrate that it was capable of, or interested in, performing the solicited requirements, or that it had a legitimate basis to question an agency's actions.

Indeed, despite filing protests challenging hundreds of federal procurements, there is little or no evidence that this company has the requisite direct economic interest in any of these procurements. Publicly available information provides no evidence that Latvian Connection has successfully performed even a single government contract, and there is no evidence in the many cases presented to our Office to suggest that Latvian Connection engages in any government business activity whatsoever beyond the business of filing bid protests.

It has become evident to our Office, and to procuring activities across the government, that Latvian Connection's protests are not filed for the purpose of allowing the firm to compete on a relatively equal basis for a requirement that it is capable of, and interested in, performing. Moreover, the effect of Latvian

Connection's protests is to hector the acquiring activities--and our forum--with a stream of protests that divert our collective time and resources. In the cases described above, and in the many, many other cases Latvian Connection has filed, attorneys for procuring agencies have prepared responses to Latvian Connection's protests on the basis that Latvian Connection is not an interested party to challenge these procurements; that its protests are procedurally infirm in one way or another; or that they simply are without merit. Correspondingly, our Office has expended significant resources to process Latvian Connection's filings, review the facts and law, and respond meaningfully and equitably to Latvian Connection's contentions.

The wasted effort related to Latvian Connection's filings is highlighted by its latest series of protests (including the current protest) challenging acquisitions that were conducted years ago, where performance is complete and there is no possible remedy available.⁸ These protests have placed a burden on GAO, the agencies whose procurements have been challenged, and the taxpayers, who ultimately bear the costs of the government's protest-related activities. When presented with evidence, as here, that Latvian Connection does not hold the umbrella ID/IQ contract under which the order was issued, or that the order involves an amount lower than the statutory threshold for GAO's task order jurisdiction, Latvian repeatedly fails to engage with the issues. Instead, the company simply files a lengthy, often unrelated, harangue that does not address the threshold issues that must be answered by any forum as part of its review.

We conclude that the above-described litigation practices by Latvian Connection constitute an abuse of our process, and we dismiss the protest on this basis. Although dismissal for abuse of process or other improper behavior before our Office should be employed only in the rarest of cases, it is appropriate here where we find that Latvian Connection's abusive litigation practices undermine the integrity and effectiveness of our process. See PWC Logistics Servs. Co. KSC(c), supra.

In addition, because of these abusive litigation practices, and to protect the integrity of our bid protest forum and provide for the orderly and expedited resolution of protests, we are suspending Latvian Connection from protesting to our Office for a period of one year as of the date of this decision. We are taking this action to conserve limited government resources that would otherwise be expended to respond to meritless protests filed by an entity with no direct economic interest in

⁸ As noted, the task order protested here was issued on January 18, 2013, and fully performed by January 31, 2016. In another example, in B-413052, Latvian Connection challenged an acquisition for the purchase of two vehicles conducted by the Department of State. The contract in question was awarded on September 30, 2013, and fully performed within a month of the award date; Latvian Connection's protest was filed in our Office on April 28, 2016, almost three years after the contract had been fully performed.

the outcome (as required by our statute and regulations). We are also taking this action because we have seen no evidence that Latvian Connection is prepared to engage constructively on the issues raised by the protests it files.

Our forum remains available to protesters with legitimate concerns regarding the propriety of an agency's procurement activities, and we stand ready to entertain protests from Latvian Connection at the end of this period--provided those protests raise legitimate concerns in acquisitions where Latvian Connection has a direct economic interest in the outcome, and is prepared to engage substantively on the issues it raises. But we also conclude that allowing this pattern of abuse to continue uninterrupted serves no useful purpose.

We do not take these actions lightly. We understand that we temporarily are foreclosing to Latvian Connection one avenue of redress that ordinarily would be available to a concern interested in competing for a federal contract to contend that the government has taken action that violates procurement laws and regulations. 31 U.S.C. § 3554. Nonetheless, on balance, suspending for one year Latvian Connection's eligibility to file protests with our Office may incentivize the firm to focus on pursuing legitimate grievances in connection with acquisitions for which there is evidence that Latvian Connection actually is interested in competing.

Our bid protest process does not provide, and was never intended to provide, a platform for the complaints of businesses or individuals that, to all outward appearances, have no actual interest in, or capability to perform, the government contracting opportunities to which they have objected. Nor, as a forum for the expeditious and inexpensive resolution of bid protests, are we required to endure baseless and abusive accusations.

By separate letter of today to Latvian Connection, we are advising the firm, and its principal, that both will be precluded from filing a protest in our Office for a period of one year from the date of this decision. As set forth above, if, at the end of this period, Latvian Connection wishes to raise concerns that an agency has violated procurement laws or regulations in an acquisition where Latvian Connection has a direct economic interest, and Latvian Connection demonstrates that it is prepared to engage substantively on the issues it raises, we will again accept its protests in our forum.

The protest is dismissed.

Susan A. Poling
General Counsel